

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Request for Waiver by)	
)	
Duncanville Independent School District Duncanville, Texas)	File No. SLD-272355
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Changes to the Board of Directors of the National Exchange Carrier Associations, Inc.)	CC Docket No. 97-21
)	

ORDER

Adopted: June 20, 2002

Released: June 21, 2002

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Waiver Request from Duncanville Independent School District (Duncanville), Duncanville, Texas.¹ Duncanville seeks a waiver of the Commission's rules governing the schools and libraries universal service support mechanism.² Specifically, Duncanville request a waiver of the filing deadline for Funding Year 4.³ For the reasons set forth below, we deny Duncanville's Waiver Request.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.⁴ In

¹ Letter from Andrew W. Berning, Duncanville Independent School District, to Federal Communications Commission, filed May 15, 2001 (Waiver Request).

² See Waiver Request. We understand that Duncanville's request is based upon a telephone conversation with SLD in early May of 2001 in which SLD stated that the application was deemed untimely. SLD confirmed its decision by sending Duncanville a number of postcards to this effect in July of 2001. See, e.g., Postcard from the Schools and Libraries Division, Universal Service Administrative Company, to Duncanville Independent School District, dated July 13, 2001. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Universal Service Administrative Company (Administrator) may seek review from the Commission. 47 C.F.R. § 54.719(c).

³ Waiver Request.

⁴ 47 C.F.R. §§ 54.501–54.503.

order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Schools and Libraries Division (SLD) of the Administrator a completed FCC Form 470.⁵ Once the applicant has complied with the Commission's competitive bidding requirements and entered into an agreement for eligible services, it must submit a completed FCC Form 471 application to SLD.⁶ The Commission's rules require that the applicant file the FCC Form 471 by the filing window deadline to be considered pursuant to the funding priorities for in-window applicants.⁷ The last day of the filing window for Funding Year 4 was January 18, 2001 and all paper components of the FCC Form 471 applications had to be postmarked by that date.⁸

3. Duncanville admits that it was late in submitting its forms, but attributes the delay to a staffing change.⁹ Duncanville filed its FCC Form 470 January 22, 2001, a few days after the filing window closed.¹⁰ Duncanville submitted its FCC Form 471 on March 5, 2001, well outside the January filing window.¹¹ Duncanville states that the delay was due to a change in leadership in its technology department, and argues it still needs the funds for discounts.¹² Duncanville requests a waiver of the filing deadline.¹³

4. Duncanville's Waiver Request can be granted only if waiving the deadline is supported by a showing of good cause.¹⁴ A deviation from a general rule is not permitted unless special circumstances warrant it and the deviation would better serve the public interest than strict adherence to the general rule.¹⁵ SLD reviews and processes thousands of applications each year, and therefore it is administratively necessary to place on the applicant responsibility for complying with SLD's rules and procedures.¹⁶ Timely submissions are needed because, under the funding mechanism, all requests for funding received within the initial filing deadline must be analyzed together in order to be considered pursuant to the funding priorities for in-window applicants.¹⁷

⁵ 47 C.F.R. § 54.504(b).

⁶ 47 C.F.R. § 54.504(c).

⁷ 47 C.F.R. §§ 54.504(c), 54.507(c).

⁸ SLD website, FCC Form 471 Window Opens for Year 4 Applicants; New Filing Requirements Firmly Established (November 2, 2000) <<http://www.sl.universalservice.org/whatsnew/112000.asp#110200>>.

⁹ Waiver Request.

¹⁰ FCC Form 470, Duncanville Independent School District, posted January 22, 2001.

¹¹ FCC Form 471, Duncanville Independent School District, filed March 5, 2001 (envelope containing certification and attachments with postmark date of March 5, 2001).

¹² *Id.*

¹³ *Id.*

¹⁴ *See* 47 C.F.R. § 1.3.

¹⁵ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (appeals court vacating a Commission decision to grant a waiver in a licensing issue, because it was arbitrary and capricious).

¹⁶ *See Request for Review by Anderson School Staatsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610, para. 8 (Com. Car. Bur. 2000).

¹⁷ *See* 47 C.F.R. §§ 54.504(c), 54.507(c).

5. We have consistently held that neither staffing changes nor misunderstanding relieves applicants of their responsibility to understand and comply with SLD's rules and procedures.¹⁸ The applicant ultimately bears the responsibility of completing the relevant forms and submitting them within the established deadline if the applicant wishes to be considered with other in-window applicants.¹⁹ We therefore conclude that Duncanville has not demonstrated special circumstances upon which its Waiver Request can be granted.

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Waiver Request filed by Duncanville ISD, Duncanville, Texas, on May 15, 2001, is DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

¹⁸ See, e.g., *Request for Review by Danbury Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. NEC.471.04-13-00.31900001, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 10910 (Com. Car. Bur. 2001) (denying waiver request in case when employee responsible for filing failed to do so); *Request for Review by St. Mary's Public Library, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. NEC.471.12-07-99.02000002, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 12936, para. 5 (Com. Car. Bur. 2001) (denying a waiver request to the extent it is requested "due to misunderstanding of the program rules").

¹⁹ See *id.*